

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ACR PAPER PRODUCTS, INC.,

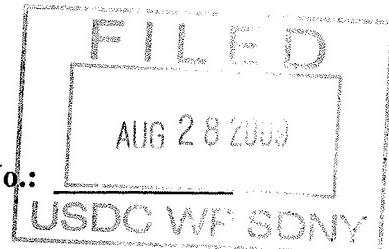
Plaintiff,

-against-

VINEYARD VINES,

Defendant.

Docket No.:



COMPLAINT
09 CIV. 7547

JURY TRIAL DEMANDED
ON ALL ISSUES

JUDGE SWAIN

Plaintiff, ACR PAPER PRODUCTS, INC. (hereinafter "ACR"), by and through its undersigned attorneys, hereby files the following Complaint and, in support thereof, avers as follows:

PARTIES

1. Plaintiff, ACR, is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 1375 Garrison Avenue, Bronx, New York.

2. Defendant, VINEYARD VINES, LLC. ("VINEYARD VINES"), is a corporation organized and existing under the laws of the State of Connecticut, with its principal office located at 37 Brownhouse Road, Stamford, Connecticut.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and this action pursuant to 28 U.S.C. § 1332(a), because the matter in controversy exceeds \$75,000.00, exclusive of costs, and it is between citizens of different states.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) in that a substantial part of the events or omissions giving rise to the claim occurred in Bronx, New York.

FACTUAL ALLEGATIONS

5. ACR and VINEYARD VINES entered into a series of agreements whereby VINEYARD VINES ordered custom merchandise from ACR. The merchandise included custom packaging for retail merchandise sold by VINEYARD VINES to its customers. As a result of these agreements, ACR rendered the following merchandise and charges to VINEYARD VINES:

<u>Invoice No.</u>	<u>Date</u>	<u>Amount</u>
8588621	6/24/08	\$107,534.54
8588621/1	6/24/08	\$ 4,500.00
8588676/1	7/14/08	\$ 15,121.20
8588684/1	7/16/08	\$ 9,451.20
8588800	8/11/08	\$ 5,407.22
8589173/1	1/11/09	\$ 4,500.00

6. ACR fulfilled its contractual obligations by manufacturing and/or acquiring the custom merchandise ordered by VINEYARD VINES.

7. ACR fulfilled its contractual obligations by delivering and/or storing the custom merchandise ordered by VINEYARD VINES.

8. ACR has duly demanded payment from VINEYARD VINES.

9. VINEYARD VINES has not made any payments to ACR for the aforementioned Invoices.

10. VINEYARD VINES breached its contractual obligations by failing to pay for the merchandise it ordered and received.

11. As of July 23, 2009, VINEYARD VINES owes to ACR the amount of \$146,514.16.

12. VINEYARD VINES breached the terms and conditions of its contract(s) with ACR.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

13. ACR restates and incorporates by reference paragraphs 1 through 12 of this Complaint as if fully set forth herein.

14. ACR duly delivered and/or stored all merchandise ordered by VINEYARD VINES without any timely complaint from VINEYARD VINES.

15. Despite numerous attempts by ACR to collect the outstanding balance, to date, VINEYARD VINES has failed to pay the outstanding balance. As of July 23, 2009, the outstanding balance due ACR is \$146,514.16.

16. By reason of VINEYARD VINES breach, ACR has been damaged in the amount of \$146,514.16, which has been and still is due and owing to ACR, together with late charges and interest thereon through the present date.

AS AND FOR A SECOND CAUSE OF ACTION
(Unjust Enrichment)

17. ACR restates and incorporates by reference paragraphs 1 through 16 of this Complaint as if fully set forth herein.

18. That by reason of the foregoing, VINEYARD VINES has been unjustly enriched in the sum of \$146,514.16, which has been and still is due and owing to ACR, together with late charges and interest, for the benefits conferred upon VINEYARD VINES by ACR and accepted and retained by VINEYARD VINES to date hereof.

AS AND FOR A THIRD CAUSE OF ACTION
(Promissory Estoppel)

19. ACR restates and incorporates by reference paragraphs 1 through 18 of this Complaint as if fully set forth herein.

20. VINEYARD VINES has repeatedly acknowledged that it owed ACR the amounts due for the custom merchandise it ordered from ACR and that payment would be forthcoming.

21. ACR reasonably and foreseeably relied upon VINEYARD VINES promise to fulfill its contractual obligations.

22. That by reason of the foregoing promise and its reliance on same, ACR has sustained an injury in the sum of \$146,514.16, which has been and still is due and owing to ACR by VINEYARD VINES, together with late charges and interest thereon.

JURY DEMAND

23. The plaintiff hereby demands a jury trial.

WHEREFORE, plaintiff, ACR, demands judgment against defendant, in an amount in excess of \$146,514.16 as set forth herein, together with late charges and pre-judgment and post-judgment interest, costs and attorneys' fees; and such other and further relief as the court deems just and proper.

Dated: White Plains, New York
August 28, 2009

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT LLC

By:


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